

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

**JUAN M. GONZALEZ,**  
**Plaintiff,**

**vs.**

**STATE FARM LLOYDS,**  
**Defendant.**

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**CASE NO. 1:16-cv-00247**

**DEFENDANTS STATE FARM LLOYDS' NOTICE OF REMOVAL**

Defendant State Farm Lloyds ("State Farm") files this Notice of Removal.

**PROCEDURAL BACKGROUND**

1. Plaintiff Juan M. Gonzalez filed this action on May 26, 2016 against State Farm in the 444th Judicial District Court of Cameron County, Texas. That case was docketed under cause number 2016-DCL-03527 (the "State Court Action").
2. State Farm was served with process on September 1, 2016.
3. On September 22, 2016, State Farm filed its Original Answer to Plaintiffs' Original Petition in the State Court Action.
4. State Farm timely files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 444th Judicial District Court of Cameron County, Texas to the United States District Court for the Southern District of Texas, Brownsville Division.

**NATURE OF THE SUIT**

5. The State Court Action which has been filed by Plaintiff Juan M. Gonzalez involves a dispute over the alleged non-payment of insurance benefits and the handling of Plaintiff's claim for damages allegedly caused by a wind and hailstorm on May 28, 2014. *See Plaintiff's Original*

*Petition* at p. 3-4. Plaintiff asserts causes of action against Defendants including breach of contract, violations of the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”), violations of Chapters 541 and 542 of the Texas Insurance Code, and breach of duty of good faith and fair dealing. *Id.* at pp. 5-11.

### **BASIS FOR REMOVAL**

6. The Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is and was complete diversity between all real parties in interest (Plaintiff and State Farm) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. At the time the State Court Action was commenced, Plaintiff was and still is a resident and citizens of Texas residing in Cameron County.

8. Defendant State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a "Lloyd's Plan" organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. See *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

9. Plaintiff's Original Petition contains a conclusory statement that “Plaintiff seeks monetary relief of \$75,000 or less.” However, Plaintiff seek damages including (but not limited to) actual damages, consequential damages, treble damages under the DTPA, statutory damages under the Insurance Code, pre-judgment and post-judgment interest, and attorney's fees. See *Plaintiff's Original Petition* at pp. 6-7, 11-13. In addition, prior to filing suit, Plaintiff sent State Farm a demand letter, a copy of which is attached hereto as Exhibit 1 and incorporated by

reference. The demand letter included an estimate of Plaintiff's alleged damages under the policy, which Plaintiffs allege to be \$26,902.37, and attorney's fees through March 29, 2016 of \$8,877.78, for a total demand of \$35,780.15. Plaintiff's demand also states "State Farm's actions constitute 'knowing' violations of the DTPA and the Texas Insurance Code sufficient to allow the imposition of treble damages up to 3 times economic damages," an allegation repeated in the Petition. *See Plaintiff's Original Petition* at pp. 6-7. As shown by Plaintiff's demand and Petition, the amount in controversy requirement is satisfied.

### **REMOVAL IS PROCEDURALLY CORRECT**

10. This Notice of Removal is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6 because State Farm was served with process on September 1, 2016 and filed an answer on September 22, 2016.

11. Venue is proper in this Division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

12. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached herein to the Index of Matters Filed (Exhibit 2).

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of Defendants' Original Notice of Removal was promptly given to all parties and to the clerk of the 444th Judicial District Court of Cameron County, Texas.

14. All documents required by Local Rule 81 to be filed with this Notice of Removal are attached herein to the Index of Matters Filed (Exhibit 2 and 2A-2D).

**PRAYER**

State Farm Lloyds respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings. State Farm Lloyds also requests any additional relief to which it may be justly entitled.

Respectfully submitted,

/s/ Sarah Nicolas

Sarah Nicolas

TSBN 24013543/SDOT 32122

**ATLAS, HALL & RODRIGUEZ, LLP**

11940 Jollyville Rd., Suite 125-S

Austin, Texas 78759

512-583-0579 – Phone

512-291-3909 – Fax

[snicolas@atlashall.com](mailto:snicolas@atlashall.com) - Email

**ATTORNEY IN CHARGE FOR DEFENDANT**

**Of Counsel:**

Dan K. Worthington

TSBN 00785282 / SDOTBN 15353

Sofia A. Ramon

TSBN 00784811/SDOT 20871

**ATLAS, HALL & RODRIGUEZ, LLP**

818 W. Pecan Blvd. (78501)

P.O. Box 3275

McAllen, Texas 78502

(956) 682-5501 – Phone

(956) 686-6109 – Fax

**CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of this document was served on all counsel of record on the 23rd day of September, 2016, as indicated below:

R. Kent Livesay  
**LAW OFFICES OF R. KENT LIVESAY, P.C.**  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 – Phone  
(956) 686-0050 – Fax  
litigation@livesaylawfirm.com

**Attorneys for Plaintiff**

/s/ Sarah Nicolas

Sarah Nicolas